SUPREME COURT, U. S.

JAN 2 1974

MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

[redacted]

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada--Local No. 540 and Ralph D. Edgerton,

Petitioners,

v.

George D. Lusk,

Respondent,

RESPONSE TO WRIT OF CERTIORARI TO REVIEW AND SET ASIDE DECISION OF UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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TABLE OF CONTENTS

PAGE

QUESTIONS PRESENTED FOR REVIEW..... 3

STATUTES INVOLVED..... 4

STATEMENT OF THE CASE..... 4

ARGUMENT:

1. The District Court Had Jurisdiction 14

2. The District Court's Transfer Card Findings Supported by Record And Law..... 26

3. The District Court's Damage Findings Supported by Record..... 29

DAMAGES FOR DELAY..... 32

CONCLUSION..... 33

CERTIFICATE OF SERVICE..... 34

TABLE OF CASES

Parish v. Legion, 450 F2d 821 (9th Circuit 1971)..... 5, 26

Hughes v. Iron Workers, Local 11, 287 F2d 810 (CA 3, 1961), cert. den., 368 U.S. 829 (1961).....16, 23

Ferger v. Iron Workers, Local 483, 238 F. Supp. 1016 (D.C. N.J., 1964), aff'd. 342 F2d 430 (CA 3, 1965).....18, 24

United Mine Workers v Gibbs, 383 U.S. 715 (1966)..... 20

PAGE

Hurn v. Oursler, 289 U.S. 238..... 21

Ferger v. Iron Workers, Local 483, 356 F2d 854 (CA 3, 1966), cert. den., 384 U.S. 902 (1966)..... 25

Ferger v. Iron Workers, Local 483, 94 N.J. Super 554 (N.J. Sup. Ct., CH. Div., 1967), 55 Labor Cases Para 51, 664, Aff'd. 235 A2d 482 (N.J. Sup. Ct. App. Div. 1967)..... 25

Vassella v. U.S., 405 F2d 599, 600 (CA 4, 1969)..... 26

In The

Supreme Court of the United States

No. 73-163

United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada--Local No. 540 and Ralph D. Edgerton,
Petitioners,

v.

George D. Lusk,
Respondent.

ANSWER TO PETITION FOR WRIT OF CERTIORARI TO REVIEW AND SET ASIDE THE DECISION OF UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

ANSWER TO PETITION FOR WRIT OF CERTIORARI

Respondent, George D. Lusk, states that the Court should deny the Writ of Certiorari to review and set aside the decision of the United States Court of Appeals for the Fourth Circuit. The Respondent requests the Clerk of the Court of the Fourth Circuit, pursuant to paragraph 1 of Rule 21 of the Rules of the Supreme Court of the United States, to certify and provide for trans-

mission to the Court the following parts of the record below:

1. Respondent's brief in the Court below.

2. Respondent's response to Appellant's motion for summary reversal in the Court below.

Respondent's deposition and transcript of the trial proceedings have been reproduced in full and each is so included in the appendix transmitted to the Court as per Petitioner's request in his brief. Respondent's statement of the case and argument herein are the same as set forth in Respondent's brief in the Court below including references to the appendix and its contents.

When cited, the deposition will be designated as "D" followed by a number or numbers referring to the page or pages therein. The page numbers may be followed by line numbers, e.g., "D. 11, L.4-5." The transcript will be similarly cited as "T"; the complaint, answer, opinions and orders, and notice of appeal, appearing in the appendix, will be cited as, e.g., "App.

1-5." The case involved joint Plaintiff's and Defendant's exhibits; they will be cited respectively as "JX", followed by the exhibit number; "PX", and "DX". The parties will continue to be referred to as they were in the Court below, Respondent (Lusk) and Petitioners (Local 540 and Edgerton).

STATEMENT OF ISSUES PRESENTED FOR REVIEW

1. Was the District Court within its jurisdiction in (a) ordering the transfer of Respondent's membership into Petitioner's Local 540, and (b) awarding damages to Respondent for lost wages, injury to reputation, and humiliation and embarrassment?

2. Was the District Court's findings that Respondent duly presented his transfer card to the Petitioners, in accordance with the union constitution, not clearly erroneous in light of the evidence presented and in accordance with the law?

3. Was the District Court's findings that Respondent sustained damages for lost wages,

injury to reputation, and humiliation and embarrassment not clearly erroneous in light of the evidence presented and in accordance with the law?

STATUTES INVOLVED

The statutes involved are those as set forth in the brief of the Petitioners and the same are therefore not restated in this brief.

STATEMENT OF THE CASE

Respondent brought an action pursuant to 29 U.S.C. Section 411 (a) (1) alleging that while a member in good standing of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada (international) and of Local 272 of that international union, the Respondent, a pipefitter, was discriminatorily denied transfer of his membership in Local 272 to the Petitioner Local 540 in Newport News, Virginia.

Respondent sought injunctive relief ordering his transfer of membership from Local 272 into Petitioner Local 540, as well as an

award of damages (App. 1-5). The District Court, Honorable John A. Mackenzie presiding, ruled on February 25, 1972, that the said action was maintainable. The National Labor Relations Board had earlier quite properly concluded that the action complained of by the Respondent did not constitute an unfair labor practice under Sections 7 and 8 of the National Labor Relations Act, 29 U.S.C. Section 157-58, thus relegating the Respondent to the right of action provided in Federal District Court by the LMRDA, 29 U.S.C. Section 412. As was pointed out in Parish v. Legion, 450 F.2d 821, 829 (9th Cir. 1971):

> The General Counsel (of the NLRB) was correct in his conclusion that refusal to admit travelers into membership could not constitute an unfair labor practice under Section 8(b) (1) (A) of the National Labor Relations Act, . . . , (but) the opinion (of the NLRB) expressly recognized also that resort to the

courts under Title I of the LMRDA might be justified "in an attempt to rectify the alleged abuses by (the) local . . . ."

This case was tried without a jury on September 22, 1972. A motion to dismiss as to the then Defendant International was granted at the conclusion of Respondent's evidence (App. 12) and this appeal is now maintained by the remaining Petitioners, Edgerton and Local 540.

Prior to trial, the parties stipulated to the following facts which the District Court adopted as part of its findings (App. 12-13):

A. That the Respondent, George Lusk, was a member of Local 272 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada.

B. That the Respondent had a travel card from Local 272 which the Respondent claims was presented to Local 540 on the 24th day of November, 1969. This card was accepted by the Local 540 business agent, Ralph D. Edgerton.

C. That thereafter the Respondent presented a transfer card to the business agent of Local 540, Ralph D. Edgerton, at which Respondent claims was the proper time and said transfer card was not accepted by said Ralph D. Edgerton.

D. That the transfer card of the Respondent was presented by him to the Petitioner Local 540 on one occasion only.

E. That damages, if any, concerning loss of employment would start November 24, 1970, and continue thereafter.

F. That on or about July 26, 1971, the Respondent, George Lusk, filed a similar complaint against the Petitioner Local 540 with the National Labor Relations Board. Thereafter, the board investigated the complaint and after conferring with the Respondent the complaint was withdrawn.

G. That the Respondent's income for the last four years is as follows:

1968	$ 6,649.76
1969	7.654.30
1970	14,401.40

1971 $ 7,414.42

H. That with the exception of thirty dollars, the Respondent's entire income for the year 1970 was derived from earnings at Stone & Webster Engineering Corporation.

The district court further found as follows:

1. That the travel card referenced in stipulation B, supra, had been issued properly in accordance with the International's constitution. (App. 13).

2. That by virtue of the said travel card and as authorized by the said constitution Respondent worked out of Local 540 after November 24, 1969, and paid dues to both his home local, Local 272, and Local 540 through March, 1971; and that Respondent's March, 1971, dues payment to Local 540 was returned to him by that local. (App. 14).

Respondent concedes that the District Court may have erred in its findings concerning the month when Plaintiff's last check was returned

to him, but submits that this was harmless error in view of the ultimate issues in this case.

3. That on November 24, 1970, Respondent presented his transfer card to Petitioner Edgerton. This finding is amply supported by credible testimony of Respondent, George D. Lusk, that he knew and understood the requirements of the union constitution (JX 1, §§ 180, 181 (d)) governing the one year waiting period for transfer cards (T. 15-16, 22); that he had complied with these requirements (T. 16); and that he remembered he tendered the transfer card on November 24, 1970, because that action in part led to the loss of his job that same day at Stone & Webster Engineering Corporation. (T. 24-25).

4. The court further found it to be the policy of defendant Local 540 not to accept new members on transfer cards unless absolutely necessary (a practice in itself a violation of the union constitution (JX 1, § 181 (n)), which would subject the union local to a $100 a day fine) and further, that only three new members

have ever been accepted on transfer cards out of the many applications during Edgerton's tenure as business agent of some years.

Although the court had, early in the trial, questioned the relevance of the Petitioner local's general pattern of transfer card discrimination as it applied to Respondent Lusk's own case (T. 62, L. 10-14), the record makes it clear the court later recognized that the general discriminatory pattern of the local tended in logic to prove a material fact of Respondent's case, i.e., that the local, pursuant to this illegal and arbitrary policy, improperly refused to accept Respondent's transfer card. (T. 126-27, 135; L. 16-17, 136, 139-40).

5. The district court found that Respondent's transfer card was prematurely issued by Respondent's home Local 272 since § 181(d) of the union constitution (JX 1) provides that none shall be issued until the member requesting transfer has a valid travel card on file in the local union to which he wished to transfer (Local 540) for at

least one year prior to his application therefor. The transfer was issued by the home local, Local 272, on November 3, 1970. Arguably it should not have been issued until November 24, although the constitution states that the card shall be valid for a period of one month. (JX 1, § 181(f)).

Petitioner Edgerton testified that he did not refuse to accept the card because of its improper issuance, but because it was presented prematurely. (T. 113, 138-39). The court saw through the Petitioners' insistence on formality, stating, "wasn't the . . . reason (given by Mr. Edgerton), being one day early out of the year, indicative of the attitude with which these sort of transfer applications are accepted?"

"Here is a man being denied his transfer card because he is one day early. He is not told to bring it back a day later. He is just told, 'You're early,' and that's it, and when he persists in it, additional reasons are found: the card was prematurely issued; the officer didn't co-sign his letter of change of domicile; he is

a poor worker."

"It destroys the weight, it seems to me, to be given these ostensible reasons for denying acceptance of his transfer card." (T. 139-40) (emphasis added).

6. The district court found that Petitioner Local 540 received due notice of Respondent's change in domicile and residence. (App. 15).

7. The court found that the reason given to Respondent for rejection of his transfer card was that Respondent had presented it "too early." (App. 15).

8-13. The District Court found that as a result of not being accepted as a member of Petitioner Local 540, the Respondent has suffered loss of wages, been damages in his reputation and suffered humiliation and embarrassment. (App. 16). The court and the counsel for Respondent recognized that, by the nature of the harm suffered, measuring the loss for damage to the reputation and for suffering humiliation and

embarrassment will to a certain extent always be speculative. (T. 133). Thus it traditionally has been the province of the jury, or the judge sitting without a jury, to act as the surrogate of the "average reasonable man" in attempting to put a dollar value on losses incurred due to pain and suffering, defamation, or, as in this case, injuries to reputation and pride.

In its eleventh finding (App. 16), the court found in part that as a member of Local 540, the average journeyman would have earned between $10,000 and $11,000 for the years 1970, 1971 and 1972. The Respondent made far more in 1970 than the average journeyman, Petitioner Edgerton testified, because he worked on the Stone & Webster job, "an exceptional job, a once-in-a-lifetime deal." (T. 109, L. 13-19). Although the court acknowledged that "there is no record of the Respondent's earnings in 1972 . . ." (App. 16), the court recognized that Respondent's wages in 1972 "ranged from $165.00 per week as a cook to $4.02 and $4.25 an hour as a pipefitter"

(id.), which was a substantial drop from the $6.85 an hour plus doubletime for overtime that Respondent would have earned as a union pipefitter. (T. 17-18).

In its thirteenth finding of fact, the court considered the evidence of Respondent's unsatisfactory work performance to reduce the award of damages from that which the court might otherwise have awarded the Respondent for loss of income had he been an exemplary workman. (App. 16-17).

The district court concluded that Respondent's working "on permit" is not the equivalent of working as a full member. (App. 17). In addition to Respondent's requirement of paying dues to both his home local and the Defendant local, the Respondent is denied an effective voice in the conduct of affairs in Local 540, which affairs have an important effect on his means of livelihood. Further, the court concluded that Petitioners would likely give preference in employment to members of Local 540

(App. 17) although this is prohibited by the union constitution and the local contract. Although Petitioners vigorously denied such discrimination, they offered no reason why they would wish to exclude transfers from membership in their local, which can only indicate there must be some benefit to be gained from being a member that is denied to travel card workers. Further, Respondent stated in his deposition that he was given less desirable work out of Local 540 when he was working "on permit" than the members were given. (D. 104).

The district court denied punitive damages, but allowed Respondent compensatory damages in the amount of $7,500 and ordered Petitioners Edgerton and Local 540 to accept Respondent's transfer card and to accept Respondent as a member in Petitioner Local 540. (App. 17). It is this order that is now the subject of appeal by the said Petitioners.

ARGUMENT

I. The District Court Had Juris-

diction to Order Respondent's Transfer of Membership Into Defendant Local 540, and to Award Respondent Compensatory Damages.

A. Jurisdiction of the District Court Under Hughes v. Iron Workers, Local 11.

Petitioners are correct in asserting that this case is analogous to Hughes v. Iron Workers, Local 11, 287 F.2d 810 (3d Cir.), cert. denied, 368 U.S. 829 (1961), in that both cases involved a claim under the "Bill of Rights" subchapter of the Labor Management Reporting and Disclosure Act of 1959. 29 U.S.C. § 411-412.

In Hughes, the third circuit ruled that a union member has a valid cause of action in federal district court to enforce his transfer rights under his union's constitution. Petitioners maintain that the Hughes court required a plaintiff to have complied fully with the transfer requirements of the union before an action would lie under §§ 411 and 412. Thus, Petitioners erroneously, it is submitted, attempt to distinguish Hughes and its progeny, all of which hold

that plaintiffs seeking transfer of membership have a valid cause of action under the LMRDA, on the ground that Respondent in the instant case has not complied with all the technicalities for transfer.

The congressional policy expressed in the LMRDA states:

> The Congress finds . . . that in order to accomplish the objective of a free flow of commerce it is essential that labor organizations . . . and their officials adhere to the highest standards of ethical conduct in administering the affairs of their organizations.
>
> . . .

29 U.S.C. § 401(a) (emphasis added).

The district court, with good reason, found in this case that the Petitioners Edgerton and Local 540 did not adhere to these high standards, but rather practiced a policy of discrimination in accepting transfer applications in contravention of their own union constitution. The premature issue of the transfer card and the alleged early tender were properly found by the

court to be hypertechnicalities through which the Petitioners pursued their discriminatory policies.

In Ferger v. Iron Workers, Local 483, 238 F. Supp. 1016 (D. N.J. 1964), aff'd, 342 F.2d 430 (3d Cir. 1965), the defendant union also sought to justify its refusal to accept the plaintiffs' transfer applications on the grounds that the plaintiffs had not tendered their books on entering the defendant local's jurisdiction. The court found this argument of no avail, because "any requirement of immediate tender was never pointed out to the plaintiffs." 238 F. Supp. at 1022. Furthermore, such requirements could be waived. Here the home local issued the Respondent his transfer card prematurely, without pointing out its prematureness, and Edgerton failed to notice or point out this fault to Respondent.

Thus, although as Petitioners assert so vigorously, the one-year requirement in § 181 (d) is a technicality which is on the books, Petitioners cannot clutch at this legalistic straw to justify action taken pursuant to their continuing

discriminatory policy toward transfers. Further, the union constitution itself prescribed the procedure to be followed in a case where there is a question about the validity of a card:

> (h) The Local Union shall accept the transfer card properly presented for deposit. . . .
> (i) Within thirty days after the transfer card has been deposited, if a question arises as to the legality or validity of accepting the transfer card or the issuance of the transfer card, the Local Union accepting or issuing the transfer card shall file a protest with the General President who shall take appropriate action. . . .

(JX 1, § 181(h-i) (emphasis added).

Here the Petitioner refused the card to begin with, and only later sought to justify its action on the grounds that the card was not properly issued. As the constitution indicates, supra, the proper procedure in such cases would be a post hoc protest, after the Respondent's card was accepted.

Thus, while Hughes required the Respondent to have complied with all the requirements of membership in the Petitioner local in order to

give the district court jurisdiction under the LMRDA, Ferger recognized that some requirements are mere technicalities that may be waived if they are not brought to the Respondent's attention. Further, it is submitted that even if the requirements are of substance, the Petitioners should not be permitted to hide their discriminatory practices behind a smokescreen of "ostensible reasons" for denial of transfer.

B. Jurisdiction to Order Respondent's Transfer of Membership.

Petitioners cite a number of cases for the proposition that a federal court in an action under § 411(a) of the LMRDA lacks authority to order the transfer of Respondent's membership into the Petitioner local. However, all of the cases cited but one have a distinguishing feature in common: they were decided prior to the Supreme Court's ruling in United Mine Workers v. Gibbs, 383 U.S. 822 (1966). While Gibbs did not involve a transfer dispute, the Court did speak at length on the concept of pendent jurisdiction

of federal courts to hear state claims that were involved in federal labor cases.

> With the adoption of the Federal Rules of Civil Procedure and the unified form of action . . . the impulse is toward entertaining the broadest possible scope of action consistent with fairness to the parties; joinder of claims, parties and remedies is strongly encouraged. Yet, because the Hurn (v. Oursler, 289 U.S. 238) question involves issues of jurisdiction as well as convenience, there has been some tendency to limit its application to cases in which the state and federal claims are, as in Hurn, "little more than the equivalent of different epithets to characterize the same group of circumstances." This limited approach is unnecessarily grudging. Pendent jurisdiction, in the sense of judicial power, exists

whenever there is a claim "arising under (the) Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their authority . . . " U.S. Const., Art. III, § 2, and the relationship between that claim and the state claim permits the conclusion that the entire action before the court comprises but one constitutional "case". The federal claim must have substance sufficient to confer subject matter jurisdiction on the court. (Citations omitted). The state and federal claims must derive from a common nucleus of operative fact. But if, considered without regard to their federal or state character, a plaintiff's claims are such that he would ordinarily be expected to try them all in one judicial proceeding, then, assuming

substantiality of the federal issues, there is power in federal courts to hear the whole. That power need not be exercised in every case in which it is found to exist. It has been consistently recognized that pendent jurisdiction is a doctrine of discretion, not of plaintiff's (or defendant's) right. Its justification lies in considerations of judicial economy, convenience and fairness to litigants. . . Needless decisions of state law should be avoided both as a matter of comity and to promote justice . . . .

383 U.S. at 724-26. (emphasis added).

Hughes v. Iron Workers, Local 11, 287 F. 2d 810 (3d Cir.), cert. denied, 368 U.S. 829 (1961), decided five years prior to Gibbs, decided that the district court could not order the transfer of Respondent into the Petitioner local, on the ground that "there is no warrant in the

statute for granting a member of a labor organization any other membership rights secured to him by the union's constitution and by-laws which are enforceable only under state law in a suit such as that at bar." 287 F.2d at 818 (emphasis added). But Petitioners in their brief failed to note for the court the Hughes court's caveat in footnote 6 of this same page, that "Hughes has not asserted pendent jurisdiction of any causes of action arising under state law."

Similarly, Ferger v. Iron Workers, Local 483, 238 F. Supp. 1016 (D. N.J. 1964), aff'd, 342 F.2d 430 (3d Cir. 1965), did not raise the issue of pendent jurisdiction. In contrast, the Respondent in the present case specifically invoked the district court's pendent jurisdiction under Gibbs to adjudicate the question of Respondent's remedies under state law.

Further, contrary to Petitioners' characterization of the third circuit as "wholeheartedly affirming" the Hughes line of reasoning on this limited right of relief, that court in its

second review of Ferger, 356 F.2d 854 (3d Cir. 1966), was extremely reluctant to force the plaintiffs to go to the state court to seek relief, suggesting instead that the plaintiffs file a petition in the district court for clarification "of the Act in this circuit as it pertains to plaintiffs' predicament. . . . The object, of course, would be eventually to have this court pass directly upon the merits of this precise question and so resolve the present, confused, uncertain situation regarding it." 356 F.2d at 855 (emphasis added).

After a denial of certiorari in the Supreme Court, 384 U.S. 908 (1966), however, the plaintiffs repaired to the state court to seek their remedies of a transfer order. The New Jersey Superior Court specifically noted that the decision in Gibbs, marking an expansion in the area of pendent jurisdiction, "was handed down after the decisions in Ferger v. Local 483 in the Federal Courts." Ferger v. Local 483, 94 N.J. Super. 554, 229 A.2d 532, 540 (Chancery

Div.), aff'd, 235 A.2d 482 (N.J.Super. Ct., App. Div. 1962).

The state court concluded that the federal court under Gibbs could have exercised pendent jurisdiction, but in its discretion declined to do so. In the present case, the district court did choose to so exercise its discretion, and decided the state remedies issue in favor of plaintiff.

Again, in Parish v. Legion, 450 F.2d 821 (9th Cir. 1971), the only transfer case decided after Gibbs, the ninth circuit did not approach the issue of whether the district court could decide a state remedies issue under its pendent jurisdiction. Instead, the court merely affirmed the Hughes characterization of the state-federal nature of the remedies available.

II. The District Court's Findings That Respondent Duly Presented His Transfer Card to the Petitioners in Accordance with the Union Constitution, Is Correct and Supported by the Record and the Law.

This court in Vesella v. United States,

405 F.2d 599 (4th Cir. 1969), affirmed its adherence to the standards on Rule 52 of the Federal Rules of Civil Procedure which states in part:

> In all actions tried upon the facts without a jury . . . [f]indings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge of the credibility of the witnesses.

(Emphasis added).

The Petitioners again stress here the "failure" of Respondent to comply with the technical requirements of the union constitution, to invalidate the court's findings, in that Respondent presented a transfer card issued prematurely by the home local. (Defendant's Brief at 15-17). They go on to cite Parish v. Legion, supra, for the proposition that "Congress did not intend Section 3(0) [of the LMRDA] to 'limit the previously recognized rights of unions to choose their members.'" The Parish court had, however, earlier distinguished transfer cases from the coverage of this dicta, on

the grounds that these men were already members of the union and thus their transfer, as opposed to their initial admission to a union, was not a matter of discretion. 450 F.2d at 824.

The Petitioners also argue that the technical requirement of the union constitution was binding on Respondent as a part of his contract with the union. But as was pointed out, supra, Parish recognized that these technical requirements can be waived by failure to notify Respondent of them.

In short, the district court could and did conclude that the Petitioners were using the technical shortcoming of the prematurely issued card as an excuse for their discriminatory practices. Thus, the court concluded that Respondent had complied with the constitution, to the best knowledge of the Petitioners, at the time he tendered his card, and was still denied his transfer rights by the Petitioners. The court, it is submitted, recognized that Respondent's technical shortcoming was far outweighed by the

Petitioners' prior course of discriminatory conduct, and ruled accordingly. The court's determination, then, that Respondent is entitled to equal treatment as a "member," should not be overturned as "clearly erroneous."

The conflicting testimony as to the date of Respondent's tender of his transfer card was resolved by the judge, after viewing the demeanor of the witnesses on both sides, in favor of the Respondent, and is not "clearly erroneous" in light of the record.

III. The District Court's Findings That Respondent Sustained Damages for Lost Wages, Injury to Reputation and Humiliation and Embarrassment Are Amply Supported by the Record.

There is ample evidence in the record to indicate that Respondent was "blacklisted" by the union local after he threatened legal action to enforce his transfer rights. He stated in his deposition (D.78-79, 112-119) that he had sought to work out of Local 540 and other Virginia locals, and had been denied referrals. He further testified that he worked for the Riggins

Company for nearly a year after his altercation with Petitioners, but was not allowed to weld pipe because that was a union job. (D. 112). Respondent also testified that he was at time of trial employed by Horne Brothers, a non-union company, in a welding capacity. (T. 8). The last two facts indicate clearly that Respondent does not have such a bad reputation in the Tidewater area that he cannot get work as a welder; on the contrary, it bolsters Respondent's contention that Petitioner Edgerton and the union have the power to discriminate in job referrals, and exercised this power in Respondent's case. While it is true that Local 540 did find Respondent several jobs through referrals on his travel card, it is only after he "pushed the issue" of his transfer rights that the local experienced its "difficulties" in referring Respondent.

The district court, then, was amply supported by the record in its finding that Respondent was denied equal treatment after he demanded his transfer rights in 1970, which

resulted in his being denied work at a time when, as Mr. Riggins testified, "I needed welders." (T. 97).

The Respondent did not present any evidence of his total income for 1972, but the court could clearly discern that Respondent had suffered a $2+ per hour drop in salary because of his union difficulties, which, over the course of a 52-week work-year would amount to some $4,000 a year loss in salary to Respondent. There was sufficient evidence that Respondent's 1971 income was almost $7,000 below his 1970 union wages income and $3,000-$4,000 below the average $10-11,000 income for a union journeyman.

It is submitted that these figures, along with whatever admittedly speculative damages the district court may have attributed to Respondent's embarrassment, etc. are certainly a sufficient factual basis for the court to have grounded its award of damages in this case.

DAMAGES FOR DELAY

The Respondent herein requests this Court to invoke Rule 38 of the Rules of Appellate Procedure which reads as follows:

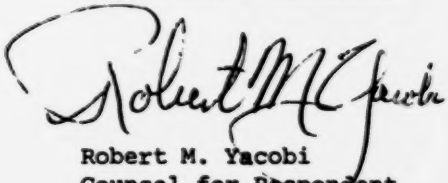
> "If a Court of Appeals shall determine that an appeal is frivolous, it may award just damages and single or double costs to the appellee."

It is herewith submitted that the appeal in this case is frivolous; that Petitioner's failure to admit Respondent into Petitioner Local 540 pending this appeal has caused the Plaintiff to sustain a reputable harm, and therefore, your Petitioner prays that this Honorable Court award him additional damages to compensate therefore.

CONCLUSION

The Fourth Circuit's judgment against Petitioners Edgerton and Local 540 should be affirmed.

Respectfully submitted



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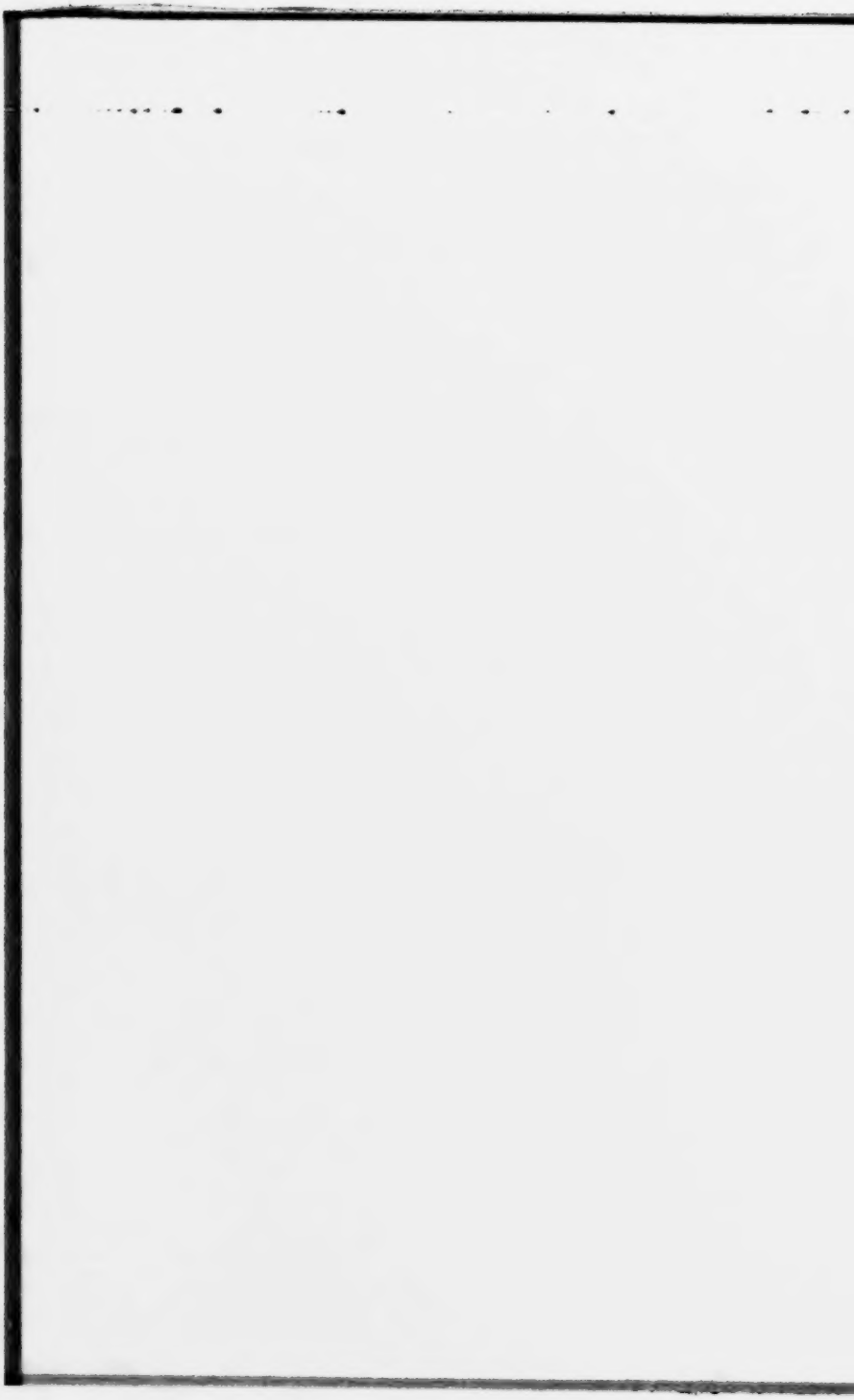

CERTIFICATE OF SERVICE

I, Robert M. Yacobi, attorney for the Respondent, certify that two copies of the foregoing Answer to Pétition For Writ Of Certiorari have been served upon counsel for the Petitioners by mailing said copies to them in the United States mails, postage prepaid, addressed to Beecher E. Stallard and Jay J. Levit, 1223-29 Central National Bank Building, Richmond, Virginia 23219.

This 28th day of December, 1973.

Robert M. Yacobi